

REMARKS

Turning to the Office Action, Claims 1-23 were rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,608,633 B1 to Sciammarella et al. in view of U.S. Patent No. 6,177,931 B1 to Alexander et al. The rejection of Claim 1 is initially focused on below.

Sciammarella appears to disclose display of categories on a display.<sup>1</sup> The scale and/or location of the category title expresses the relative importance of the category as determined by a certain measurement value. (E.g., Sciammarella, col. 3, line 65 to col. 4, line 3) The measurement value may be, for example, the frequency of use of categories by the user. (Id, col. 4, lines 28-30) For example, if a user spends more aggregate time watching movies than sports, display of the category term "movies" may be larger and more centrally located than the display of the category term "sports". (E.g., Sciammarella, col. 6, lines 8-22 and Fig. 3)

Sciammarella also indicates that a displayed category title may

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<sup>1</sup> Contrary to the statements made with respect to Claim 1 in the second paragraph of paragraph 2 (pages 2-3) of the Office Action, the cited portions of Sciammarella are directed at "categories", not "available programs". (None of the other cited portions of Sciammarella in paragraph 2 of the Office Action are directed at "available programs" either.) The Office Action acknowledges this point at lines 3-4 of page 3 of the Office Action, where it states that "Sciammarella fails to explicitly teach obtaining a list of available programs", and then cites to Alexander for purportedly teaching this aspect.

be selected and that consequently subcategory titles of the selected category are displayed. (E.g., Sciammarella, col. 6, lines 43-65) The displayed location and size of the subcategories are likewise determined according to the selected measurement value, such as frequency of use. Sciammarella also indicates that visual representations of categories and subcategories can be displayed, with the scale and locations of the visual representations determined based on their importance as determined by the measurement value. (E.g. Sciammarella, col. 7, lines 4-22 and Fig. 8)

Alexander is cited in the Office Action for "obtaining a list of available programs". (Office Action, ¶2 at p. 3, line 5, citing Alexander col. 7, lines 1-65 and Fig. 3) The Office Action states "[i]t would have been obvious ... to provide obtaining a list of available programs as taught by Alexander to the visual display categorical information of Sciammarella". (Office Action, ¶2 at p. 3, lines 5-10) Thus, the Office Action appears to combine the available programs provided in the EPG of Alexander with the category titles as displayed in Sciammarella.

Use of one of the disclosed measurement values to scale and locate titles of categories for display as in Sciammarella, modified by simply matching programs of Alexander to their

respective category titles as set forth in the Office Action, fails to teach a number of recitations of Claim 1. Without conceding any of the other issues pertaining to obviousness (such as the basis for combining references, or whether it would reasonably be successful), the combination as set forth in the Office Action fails to teach at least the Claim 1 recitations of "obtaining a recommendation score for each of said available programs; and displaying said list of available programs to a user with an indication of one or more program attributes contributing to said recommendation score". For at least these reasons, the Office Action fails to present a prima facie case of obviousness with respect to Claim 1 in accordance with MPEP 2143.03.

In addition, another requirement of establishing a prima facie case of obviousness requires that the Examiner demonstrate a proper basis for combining or modifying reference teachings. Even supposing hypothetically (but not conceding) that the combination of Sciammarella and Alexander did result in the invention as recited in Claim 1, the rationale given for combining Sciammarella and Alexander in the Office Action fails to provide a proper basis:

The rationale as given in the Office Action is "in order enhancing a user friendly and enable [sic] to provide maximum visual information about categorical information being displayed on

a display screen". (Office Action, ¶2 at p. 3, lines 8-10)<sup>2</sup> The rationale appears to be, in part, an attempt to reflect Sciammarella's stated objective of "provid[ing] maximum visual information about categorical information being displayed on a display screen". (Sciammarella, col. 2, lines 57-59)

However, providing particular programs to the display of Sciammarella as set forth in the Office Action would *not* maximize visual information about *categorical information*.<sup>3</sup> In fact, providing the details of particular programs in the categories would detract from Sciammarella's presentation of categorical information on the display screen, thus undermining its intended purpose of providing maximum visual information about categorical information.<sup>4</sup>

In particular, Sciammarella additionally refers repeatedly to utilizing visual factors to express the degree of importance of a particular category over other categories of categorical

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<sup>2</sup> Apart from not providing a proper rationale, the statement provided in the Office Action is also unclear.

<sup>3</sup> With its focus on maximizing visual information about categorical information on the display screen, absent from Sciammarella is such treatment of individual programming, as acknowledged in the Office Action.

<sup>4</sup> Thus, the combination in the Office Action fails the MPEP 2143.01 requirement that any proposed modification not render Sciammarella unsatisfactory for its intended purpose.

information. (E.g., Sciammarella, Abstract) Providing information regarding particular programs in Sciammarella as set forth in the Office Action would obscure or otherwise subvert the use of visual factors to express the degree of importance of one particular category over another.

Thus, Sciammarella's objectives do not provide a teaching, suggestion or motivation for combining Sciammarella and Alexander as set forth in the Office Action. Accordingly, the Office Action fails to provide a proper rationale for combining or modifying references according to MPEP 2143.01.<sup>5</sup> For at least this additional reason, the Office action fails to present a prima facie case of obviousness with respect to independent Claim 1.

For at least the above noted reasons, independent Claim 1 is patentably distinct from the combination of Sciammarella in view of Alexander. Reconsideration and allowance of Claim 1 is respectfully requested. Independent Claims 12 and 20-23 include recitations that provide analogous distinctions as discussed above for Claim 1 and are distinguished from Sciammarella in view of Alexander for at least analogous reasons. Reconsideration and

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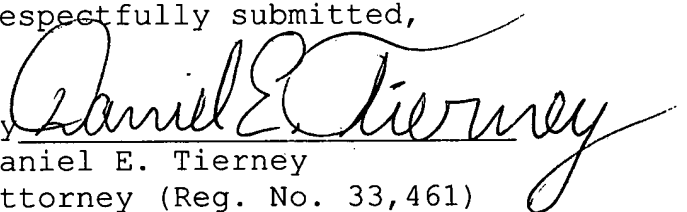
<sup>5</sup> The Office Action also indicates that the combination would have presented a more "user friendly" display. However, stating that combining Sciammarella and Alexander would have made the display more "user friendly" merely states an end result, not a proper basis for combining references under MPEP 2143.01.

allowance of Claims 12 and 20-23 is respectfully requested.

Without conceding the patentability per se of dependent Claims 2-11 and 13-19, it is submitted that they are allowable at least by virtue of their dependency on their respective independent claim. Allowance of dependent Claims 2-11 and 13-19 is respectfully requested.

In view of the above, it is respectfully submitted that Claims 1-23 are in shape for allowance, and allowance is respectfully requested. Should the Examiner believe that a telephone conference would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

By   
Daniel E. Tierney  
Attorney (Reg. No. 33,461)  
(631) 588-4429